

PAUL, HASTINGS, JANOFSKY & WALKER LLP
Robert L. Sherman (RS 5520)
75 East 55th Street
New York, NY 10022
Telephone: (212) 318-6000
Facsimile: (212) 318-6847

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIRECT MARKETING EDUCATIONAL
FOUNDATION,

Plaintiff,

Case No. 08 CV 1464 (LMM)

- against -

JOHN WILEY & SONS, INC.,

Defendant.

**DECLARATION OF RUSSELL WINER
IN SUPPORT OF PLAINTIFF DIRECT MARKETING
EDUCATIONAL FOUNDATION'S MOTION FOR
A PRELIMINARY INJUNCTION**

RUSSELL WINER declares as follows:

1. I am the William Joyce Professor of Marketing and Co-Director of the Center for Research on the Digital Economy at the Stern School of Business, New York University, have been a visiting professor at the Henley Management College in the United Kingdom since September 2006, and am the Executive Director of the Marketing Science Institute. I am an Editor Emeritus of the *Journal of Interactive Marketing* (the "JIM") and submit this declaration in support of DMEF's motion for a preliminary injunction.

2. I hold an M.S. and Ph.D. from Carnegie Mellon University. I am widely published in the direct / interactive marketing field and in the fields of marketing, advertising, and management sciences in general. I have served on the editorial boards of several academic journals and am familiar with the role of a journal's editorial staff in general and with the role of the Editorial Review Board of the *Journal of Interactive Marketing* specifically.

3. The editorial staff performs a variety of functions with respect to the JIM, including reviewing, selecting, and editing manuscripts for inclusion in the journal. The selection process is not a mechanical one. It requires professionals that are knowledgeable about the direct / interactive marketing field and aware of current scholarship in the field. In selecting and editing the articles, the editors ensure that the information is accurate, well-written, and timely.

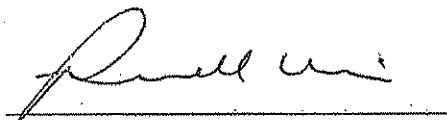
4. I am informed that the JIM editors and its Editorial Review Board have received and approved a number of new manuscript submissions that are of high quality and that they would choose to publish in 2008 given the opportunity. Instead of publishing such new high quality material, I am informed that Wiley intends to publish articles that were published in past issues of the JIM.

5. Publishing those old articles, at the expense of the current ones the JIM editors and its Editorial Review Board have received and approved, is inconsistent with the JIM's goals of being a leading publication of new and current, cutting-edge scholarship.

6. Even if a "Best of" issue were appropriate at this time, the content would still need to be selected and edited by the editorial staff. To make a "Best of" issue successful, one has to be careful to select the appropriate articles for the publication, taking into consideration how the articles complement each other, and making sure none of the articles has been refuted since they were initially published. The fact that an article was published several years ago does not mean that the editorial staff would choose to publish that article again today.

7. Approximately 10 years ago, the JIM published a "Best of" edition that was comprised of articles selected by the Editorial Review Board and thus met the JIM's quality processes and standards. Under Wiley's current plan, the articles Wiley intends to publish in the two "Best of" issues would not be selected by the JIM's editorial staff and would thus not be subject to DMEF's or the Editorial Review Board's quality control.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2008.



Russell Winer